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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/587,563	06/08/2007	Achim Kraus	081276-1104-00	8922		
23409	7590	06/24/2008	EXAMINER			
MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202				GRAHAM, GARY K		
ART UNIT		PAPER NUMBER				
3723						
MAIL DATE		DELIVERY MODE				
06/24/2008		PAPER				

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/587,563	KRAUS ET AL.	
	Examiner	Art Unit	
	Gary K. Graham	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-7 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060731</u> . | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 3 and 4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not sufficiently describe the determination of the effective radius in a regulation loop. It is not clear exactly what the regulation loop is or how it would function/operate to determine effective radius. It is not clear how the “regulation loop” would employ various tolerance positions to determine radius.

Clarification is requested.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 17, there is no antecedent basis for “the adjusted position”.

In claims 3 and 4, line 3, there is no antecedent basis for “the tolerance position of the wiping angle”. In line 4, there is no antecedent basis for “the tolerance position of the individual parts”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ursel et al (US patent 4,157,666) in view of Princet et al (EP 1428734).

The patent to Ursel discloses the invention, a method for adjusting a wiping angle, substantially as is claimed, including maximizing the wipe area (38) of a wiper blade (29) by modifying the effective radius between and articulation axis of an eccentric ball pivot (for example, fig.5) on a crank (66) and an axis of a drive shaft (25), on which the blade is ultimately mounted. Rotation of the ball pivot with attached insert portion (64) to change its orientation in a bore (65) of the driving crank (66) effects the change in radius.

The patent to Ursel discloses all of the above recited subject matter with the exception of the ball pivot having a rivet journal received in the bore in the crank with the effective radius changed by rotation of the rivet journal in the crank about an axis of the rivet journal, the wiper system being first mounted to the vehicle body without the ball pivot and various manner of attaching the rivet journal to the crank, such as riveting, caulking or stamping.

The patent to Princet discloses a method of preassembling drive linkage of a windshield wiper to compensate for tolerance in manufacture and thus achieve proper pivotal movement of the wipers on the windshield. Princet discloses employing an eccentric ball pivot (22, fig.2) between the crank (10) and connecting rod to achieve proper wipe area. Princet discloses inserting a rivet journal into the bore (28) in the driving crank, then adjusting the ball pivot by rotation thereof about an axis of the rivet journal and finally fixing the rivet journal to the crank. Princet discloses that additional riveting may be employed to reinforce the connection between the crank and ball pivot (column 4, lines 50-56).

It would have been obvious to one of skill in the art to employ a ball pivot that has a rivet journal inserted into the bore in the crank, then rotated to achieve the optimum wiping area and finally fixed via riveting, as clearly suggested by Princet, to eliminate the adjusting nut and provide a simpler construction or the ball pivot employed by Ursel.

With respect to claim 1, and the limitation of the wiper system being first mounted on the vehicle body without the eccentric ball pivot, such does not appear as a patentable difference over that which is taught by Ursel. While Ursel is silent as to whether the system is first mounted with or without the ball pivot, it must be assembled in one or the other order. However, this order does not appear significant since either order results in the same outcome. Merely shifting the order of steps, where such does not produce any new and unexpected results, appears as an obvious variant one of skill in the art would find obvious. It would have been obvious to one of skill in the art to initially mount the wiper system without the ball joint, if not already, as a mere choice of design and recognized equivalent alternative to that suggested by Ursel, lacking any criticality of such order.

With respect to claims 5 and 6, while Princet discloses riveting to secure the ball pivot, employing a different, well known manner of securement would have been obvious to one of skill in the art. Use of alternative, known techniques, to obtain securement appears as a simple substitution of one for another to obtain predictable results.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3723

GKG
21 June 2008